

Juanita Bess,

Plaintiff,

v.

Nancy A. Berryhill,
Acting Commissioner of Social Security
Administration,

Defendant.

)

)

)

)

)

)

)

)

)

)

)

Civil Action No. 5:16-03134-TMC

ORDER

Plaintiff, Juanita Bess, brought this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying her claim for Disability Insurance Benefits (“DIB”) and Supplementary Security Income (“SSI”) pursuant to the Social Security Act. (ECF No. 1). This matter is before the court for review of the Report and Recommendation (“Report”) of the United States Magistrate Judge, made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 (D.S.C.). (ECF No. 27). The Report recommends that the Commissioner’s decision be reversed and remanded pursuant to sentence four of § 405(g) for further proceedings consistent with the Report. (ECF No. 27). Specifically, the Magistrate Judge determined that the Administrative Law Judge (“ALJ”) should reconsider Plaintiff’s residual functional capacity (“RFC”), particularly in regards to Plaintiff’s “limitations in concentration, persistence, or pace as to her ability to stay on task” and in regards to Plaintiff’s visual acuity. (ECF No. 27 at 14–16). Because additional review is needed in those areas, the magistrate judge stated that the ALJ should then “revisit Plaintiff’s subjective complaints and [the ALJ’s] credibility determination.” (ECF No. 27 at 20). Plaintiff has not filed objections to the Report. On November 14, 2017, the Commissioner filed a notice of her intent not to file any

objections to the Report. (ECF No. 29). However, Defendant does not concede that her administrative decision denying benefits to Plaintiff was not substantially justified. (ECF No. 29).

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a thorough and careful review of the record, the court adopts the Report of the Magistrate Judge, which is incorporated herein by reference. The Commissioner’s final decision is **REVERSED AND REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative review as set forth in the Report. (ECF No. 27).

IT IS SO ORDERED.

s/Timothy M. Cain
Timothy M. Cain
United States District Judge

Anderson, South Carolina
November 14, 2017